

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Anna Steel	Team: Team # 8	CCRB Case #: 200714836	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 10/08/2007 9:20 AM, Wednesday, 10/10/2007	Location of Incident: § 87(2)(b)	Precinct: 120	18 Mo. SOL 4/8/2009	EO SOL 4/8/2009	
Date/Time CV Reported Mon, 10/08/2007 9:20 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/11/2007 12:03 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Frank Lupo	08621	928677	120 PCT
2. SGT Robert Warshefskie	05218	894998	120 PCT
3. POM Manuel Sepulveda	16172	929157	120 PCT
4. POM Edward Ranieri	03958	937342	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Frank Lupo	Abuse: On October 8, 2007, PO Frank Lupo stopped § 87(2)(b)	§ 87(2)(b)
B.POM Frank Lupo	Abuse: On October 8, 2007, PO Frank Lupo searched § 87(2)(b)	§ 87(2)(b)
C.POM Manuel Sepulveda	Abuse: On October 8, 2007, PO Manuel Sepulveda searched § 87(2)(b)	§ 87(2)(b)
D.POM Edward Ranieri	Abuse: On October 8, 2007, PO Edward Ranieri searched § 87(2)(b)	§ 87(2)(b)
E.POM Frank Lupo	Abuse: On October 8, 2007, PO Frank Lupo refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
F.SGT Robert Warshefskie	Abuse: On October 10, 2007, Sgt. Robert Warshefskie stopped the car in which § 87(2)(b) was an occupant.	§ 87(2)(b)
G.SGT Robert Warshefskie	Abuse: On October 10, 2007, Sgt. Robert Warshefskie supervised the search of the car in which § 87(2)(b) was an occupant.	§ 87(2)(b)
H.POM Manuel Sepulveda	Abuse: On October 10, 2007, PO Manuel Sepulveda searched § 87(2)(b)	§ 87(2)(b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)

Synopsis

On October 8, 2007, at approximately 9:20 AM, § 87(2)(b) and § 87(2)(b) were standing in front of § 87(2)(b) in Staten Island. An unmarked vehicle pulled up and three officers, identified through the investigation as PO Frank Lupo, PO Manuel Sepulveda and PO Edward Ranieri of the 102nd Precinct, approached them. PO Lupo instructed § 87(2)(b) to place his hands along a railing bordering the sidewalk. (**Allegation A**). PO Lupo searched § 87(2)(b) (**Allegation B**). § 87(2)(b) told PO Lupo that he would like his name and shield number at the conclusion of the incident. § 87(2)(b) alleged that PO Sepulveda searched § 87(2)(b) (**Allegation C**) and PO Ranieri searched § 87(2)(b) (**Allegation D**). PO Lupo did not provide his name and shield number to § 87(2)(b) at the conclusion of the incident (**Allegation E**). The officers then left the location in their unmarked vehicle.

On October 10, 2007, § 87(2)(b) and § 87(2)(b) were drove from Targee Street to the rear of § 87(2)(b) in Staten Island. § 87(2)(b) observed an unmarked police vehicle behind him and stopped his vehicle (**Allegation F**). Three officers, identified through the investigation as PO Edward Ranieri, Sgt. Robert Warshefskie, and PO Manuel Sepulveda of the 102nd Precinct, approached § 87(2)(b)'s vehicle. PO Ranieri requested § 87(2)(b)'s license. § 87(2)(b) explained that he did not have a license. PO Ranieri discovered that § 87(2)(b)'s license was suspended. § 87(2)(b) exited his vehicle and was handcuffed. § 87(2)(b) alleged that his vehicle was searched by PO Sepulveda and PO Ranieri (**Allegation G**). At the conclusion of this search, § 87(2)(b) alleged that PO Sepulveda frisked § 87(2)(b) (**Allegation H**). § 87(2)(b) was transported to the 102nd Precinct and arrested for driving with a suspended license.

On October 8, 2008, PO Frank Lupo did not prepare a stop and frisk report as required (**Allegation I**).

§ 87(2)(b), § 87(2)(g) [REDACTED]

[REDACTED]

[REDACTED] § 87(2)(b) [REDACTED]

[REDACTED] § 87(2)(b) [REDACTED] § 87(2)(b) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] § 87(2)(b) [REDACTED]

[REDACTED]

§ 87(2)(b), § 87(2)(g) [REDACTED]
§ 87(2)(b) [REDACTED]
[REDACTED] § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(b), § 87(2)(g), § 87(4-b)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b)

§ 87(2)(b). § 87(2)(b) filed a complaint with Internal Affairs on October 9, 2007 (encl. 4a – 4b). This complaint was forwarded to the CCRB on October 11, 2007 (encl. 5a – 5c). § 87(2)(b) provided a brief telephone statement on October 15, 2007 (encl. 6). § 87(2)(b) was interviewed at the CCRB on October 29, 2007 (encl. 7a – 7f). Inconsistencies between § 87(2)(b)'s statements have been noted below.

On October 8, 2007, at approximately 9:20 AM, § 87(2)(b) was standing outside of his building, § 87(2)(b) in Staten Island, with § 87(2)(b) and § 87(2)(b) and § 87(2)(b) were arguing. An unmarked vehicle double parked in front of § 87(2)(b). Three officers, identified through the investigation as PO Frank Lupo, PO Manuel Sepulveda and PO Edward Ranieri of the 102nd Precinct, exited the vehicle and ran towards them. PO Lupo instructed § 87(2)(b) to place his hands along a rail bordering the sidewalk (**Allegation A**).

PO Lupo approached § 87(2)(b) and immediately began to search him (**Allegation B**). PO Lupo asked § 87(2)(b) to remove his belongings from his pockets. § 87(2)(b) did so, and held his belongings in his hand. PO Lupo felt inside the two pockets of § 87(2)(b)'s hooded sweatshirt and felt inside the four pockets of § 87(2)(b)'s jeans. PO Lupo lifted up each pant leg and put his fingers between § 87(2)(b)'s feet and sneakers. § 87(2)(b), § 87(2)(a) CVR § 50-b § 87(2)(b) said that he would like PO Lupo's shield number at the conclusion of the search. PO Lupo replied, "Yeah, whatever."

§ 87(2)(b) was standing next to § 87(2)(b). PO Sepulveda searched § 87(2)(b) (**Allegation C**). § 87(2)(b) did not see PO Sepulveda search § 87(2)(b) because PO Lupo continued to instruct him to look straight ahead. § 87(2)(b) alleged that PO Sepulveda walked away from § 87(2)(b) and that PO Lupo concluded searching § 87(2)(b) by feeling in side the pockets of his sweatshirt, lifting up his shirt, and feeling inside his shoes. PO Ranieri searched § 87(2)(b) during this time (**Allegation D**).

§ 87(2)(b) asked if any of the officers were going to explain what the search concerned. PO Lupo told § 87(2)(b) to ask § 87(2)(b). § 87(2)(b) later told § 87(2)(b) that he did not know what PO Lupo meant by this. The officers then walked away. PO Lupo did not provide his name and shield number to § 87(2)(b) (**Allegation E**). In his telephone statement (encl. 6), § 87(2)(b) contrastingly stated that he had recorded the officers' names and shield numbers on a piece of paper. § 87(2)(b) recorded the license plate number of the unmarked van and then immediately called Internal Affairs.

On October 10, 2007, at approximately 12:00 PM, § 87(2)(b) drove from § 87(2)(b) to Targee Street and parked in front of a beauty salon. His fiancée, § 87(2)(b) was inside the salon. § 87(2)(b) drives a black Toyota Camry. Upon exiting his vehicle, § 87(2)(b) coincidentally met § 87(2)(b). They walked into the beauty salon. § 87(2)(b) asked § 87(2)(b) to purchase some hair pins. § 87(2)(b) left the beauty salon with § 87(2)(b) and bought hairpins from a nearby discount store. They returned to the beauty salon, gave § 87(2)(b) her hairpins, and left the beauty salon. § 87(2)(b) said that he would drive § 87(2)(b) to his residence, which is near § 87(2)(b).

§ 87(2)(b) drove down Targee Street and turned right onto Vanderbilt Avenue. § 87(2)(b) made another right onto Bowen Street. As he was preparing to turn into the parking lot behind his building, he saw in his rearview mirror that an unmarked vehicle had pulled up behind him. § 87(2)(b) stopped his vehicle (**Allegation F**).

Three officers, identified through the investigation as Sgt. Robert Warshefskie, PO Edward Ranieri, and PO Manuel Sepulveda of the 102nd Precinct, approached § 87(2)(b)'s vehicle. PO Ranieri requested § 87(2)(b)'s license and registration. § 87(2)(b) provided his registration and a photo ID, but explained that he did not have a driver's license. PO Ranieri asked if his license was suspended. § 87(2)(b) said that it was probably suspended. § 87(2)(b) asked why he had been stopped. Sgt. Warshefskie said on 'reason of suspicion' because he had been observed purchasing a bag of marijuana on Targee Street. Sgt. Warshefskie said that they had been conducting an investigation on Targee Street and were also investigating someone named § 87(2)(b). Sgt. Warshefskie said that they had been watching § 87(2)(b) all day, and had seen § 87(2)(b) purchase marijuana from him on Targee Street. § 87(2)(b) explained that he knows of § 87(2)(b) but is not friendly with him. § 87(2)(b) did not see or speak with § 87(2)(b) on October 10, 2007. § 87(2)(b) told the officers that he does not smoke marijuana.

§ 87(2)(b) and § 87(2)(b) exited the vehicle. PO Ranieri handcuffed § 87(2)(b). § 87(2)(b) alleged that his vehicle was also searched at the scene by PO Sepulveda and possibly PO Ranieri.

(Allegation G). The glove compartment, in between the front and back seats, and the consul were searched. No marijuana was found in § 87(2)(b)'s vehicle. § 87(2)(b) alleged that PO Sepulveda frisked § 87(2)(b) (Allegation H). PO Sepulveda patted § 87(2)(b) around his body, but did not look in any of his pockets.

A crowd of people had begun to gather at this time, including a friend of § 87(2)(b)'s, § 87(2)(b) was at the scene as well. Someone had called § 87(2)(b) and she ran over to the scene at this time. § 87(2)(b) arrived during the search of § 87(2)(b)'s vehicle. § 87(2)(b) also told the officers that § 87(2)(b) did not smoke marijuana. All three officers transported § 87(2)(b) to the 120th Precinct, where he was charged with driving with a suspended license.

Results of Investigation

Witness Statements:

§ 87(2)(b)

§ 87(2)(b) is a Hispanic male. § 87(2)(b) provided a brief statement in the complaint filed by § 87(2)(b) with Internal Affairs (encl. 4a – 4b). § 87(2)(b) provided a brief telephone statement on October 19, 2007 (encl. 8). Inconsistencies between his statements have been noted below.

On October 8, 2007, at approximately 9:00 AM, § 87(2)(b) exited § 87(2)(b) with § 87(2)(b). An unmarked vehicle pulled up and officers, identified through the investigation as PO Frank Lupo, PO Manuel Sepulveda and PO Edward Ranieri of the 102nd Precinct, exited this vehicle. § 87(2)(b) and his companions were instructed to face a fence along the sidewalk. The officers told them to take out their IDs. Then the officers said to disregard that instruction, and put their hands on the bar on top of the fence. PO Sepulveda proceeded to search § 87(2)(b). The remaining officers searched his companions.

PO Sepulveda patted § 87(2)(b) down. § 87(2)(b) had a cellular phone clipped to his waistband. His cellular phone is approximately 6 inches long. PO Sepulveda searched inside all of the pockets on § 87(2)(b)'s jeans. § 87(2)(b), § 87(2)(a) CVR § 50-b

§ 87(2)(b) PO Sepulveda then instructed § 87(2)(b) to buckle his pants, sit on the ground and take off his sneakers. PO Sepulveda patted § 87(2)(b)'s ankle area and looked inside his sneakers.

At this time, the remaining officers had concluded their searches of § 87(2)(b)'s companions. § 87(2)(b) said that he was going to call Internal Affairs and file a complaint. The officers' laughed, entered the unmarked van, and drove away. No one was arrested or issued a summons as a result of this incident. § 87(2)(b) called 911 immediately following the incident, and was transferred to IAB. At the time of his complaint with Internal Affairs (encl. 4a – 4b), § 87(2)(b) stated that an officer had told him to "shut the fuck up." He made no mention of this allegation during his telephone statement.

The investigation made the following attempts to obtain a formal statement from § 87(2)(b). A contact letter was mailed to § 87(2)(b) on October 12, 2007. A call was placed to § 87(2)(b)'s number on October 19, 2007. A brief telephone statement was obtained at this time, and an interview was scheduled for October 23, 2007. On this date, § 87(2)(b) failed to appear for his scheduled interview. Also on this date, a call was placed to § 87(2)(b)'s number and a second interview was scheduled for October 31, 2007. On this date, § 87(2)(b) failed to appear for his second, scheduled interview. A missed appointment letter was sent to § 87(2)(b) on November 01, 2007. A call was placed to § 87(2)(b)'s number on November 9, 2007, and a third interview was scheduled for November 14, 2007. On this date, § 87(2)(b) failed to appear for his third, scheduled interview. Between December 5, 2007, and December 10, 2007, three calls were placed to § 87(2)(b)'s number. No further attempts were made to contact § 87(2)(b).

§ 87(2)(b) § 87(2)(b)

§ 87(2)(b) is § 87(2)(b) old. He is a black male. § 87(2)(b) provided a brief telephone statement (encl. 9a – 9b) on November 14, 2007.

On October 10, 2007, at approximately 12:00 PM, § 87(2)(b) ran into § 87(2)(b) on Targee Street in Staten Island. § 87(2)(b) spoke with § 87(2)(b) in front of a beauty shop near § 87(2)(b)'s vehicle. There were a few individuals in the area, including an individual known as § 87(2)(b). § 87(2)(b) spoke with § 87(2)(b) for a few minutes. § 87(2)(b) and § 87(2)(b) then walked to a discount store and purchased bobby pins for § 87(2)(b)'s fiancée. § 87(2)(b) delivered the bobby pins to § 87(2)(b) who was in the beauty shop. § 87(2)(b) offered to give § 87(2)(b) a ride home.

§ 87(2)(b) drove from Targee Street to Bowen Street. On Bowen Street, an unmarked vehicle with its lights flashing stopped § 87(2)(b)'s vehicle. A number of officers, identified through the investigation as Sgt. Robert Warshefskie, PO Edward Ranieri, and PO Manuel Sepulveda of the 102nd Precinct, approached § 87(2)(b)'s vehicle. PO Ranieri approached the driver's side of § 87(2)(b)'s vehicle. PO Sepulveda and Sgt. Warshefskie approached the passenger's side of the vehicle. PO Ranieri asked § 87(2)(b) for his license and registration. § 87(2)(b) explained that he had an ID, but did not have a license.

PO Ranieri told § 87(2)(b) that the officers had seen him purchase marijuana from someone on Targee Street. PO Ranieri asked § 87(2)(b) where had placed the marijuana. § 87(2)(b) told PO Ranieri that he did not smoke marijuana. PO Sepulveda then asked § 87(2)(b) to exit the vehicle. PO Sepulveda asked § 87(2)(b) where the marijuana was, and § 87(2)(b) said that he did not know what the officers were talking about. § 87(2)(b) said that he had just come from parole and had coincidentally met § 87(2)(b) on Targee Street. PO Sepulveda asked § 87(2)(b) how he knew § 87(2)(b). § 87(2)(b) explained that they were friends, and that he had grown up with § 87(2)(b). PO Sepulveda told § 87(2)(b) that he was hanging out with the wrong person at the wrong time. PO Sepulveda continued to ask for the location of the marijuana, and § 87(2)(b) continued to state that he did not know anything regarding any marijuana. He said that § 87(2)(b) was only giving him a ride home.

PO Sepulveda then searched § 87(2)(b) by patted him along his body and feeling inside the pockets of his jeans and jacket. PO Sepulveda took out all of § 87(2)(b)'s possessions and placed them on the front hood of § 87(2)(b)'s vehicle. § 87(2)(b) had a cellular phone, a wallet and approximately fifteen dollars. After PO Sepulveda searched § 87(2)(b) he began to search § 87(2)(b)'s vehicle. § 87(2)(b) stood by the passenger side of the vehicle. PO Sepulveda and Sgt. Warshefskie searched under the seats in the front and rear of the vehicle. They looked in the area between the seats. They may have looked in the glove compartment. They did not look in the trunk of the vehicle. They did not find any marijuana.

During this time, § 87(2)(b) was in handcuffs and stood by the police vehicle. Sometime during the incident, § 87(2)(b) and § 87(2)(b) were also present. § 87(2)(b) was arrested for driving with a suspended license and placed in the unmarked police vehicle. PO Sepulveda recorded § 87(2)(b) name and address in a small booklet. PO Sepulveda also recorded the name of § 87(2)(b) parole officer. § 87(2)(b) was not arrested or issued a summons as a result of this incident. § 87(2)(b) was given § 87(2)(b)'s keys and money. § 87(2)(b) was allowed to leave, and the officers left the location.

The investigation made the following attempts to obtain a formal statement from § 87(2)(b). A call was placed to § 87(2)(b) number on November 14, 2007, and a telephone statement was obtained at this time. An interview was scheduled for November 26, 2007. On this date, § 87(2)(b) failed to appear for his scheduled interview. A missed appointment letter was sent to § 87(2)(b) and a second call was placed to his number on November 28, 2007. Between December 5, 2007, and December 10, 2007, three calls were placed to § 87(2)(b) provided number. No further attempts were made to contact § 87(2)(b).

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) old. She is a black female. § 87(2)(b) provided a telephone statement on November 21, 2007 (encl. 10).

On October 10, 2007, at approximately 12:00 PM, Ms. § 87(2)(b) was in a beauty salon on Targee Street. Someone came and told § 87(2)(b) that her fiancée, § 87(2)(b) was being arrested. Ms. § 87(2)(b) did not know the name of the person she spoke with, she knew only that he was a friend of § 87(2)(b). Ms. § 87(2)(b) walked to Bowen Street and observed two unmarked police vehicles on the street. One was a blue van, and the other was a grey vehicle. Both vehicles were unmarked. A number of officers, identified through the investigation as PO Edward Ranieri, Sgt. Robert Warshefskie, and PO Manuel Sepulveda of the 102nd Precinct, were at the location.

§ 87(2)(b) was in handcuffs and stood by one of the police vehicles. § 87(2)(b) § 87(2)(b) was standing nearby, possibly by another police vehicle. § 87(2)(b) did not see any officers frisk or search § 87(2)(b). When she arrived at the location, § 87(2)(b) approached Sgt. Warshefskie. § 87(2)(b) § 87(2)(b) asked Sgt. Warshefskie what was happening. Sgt. Warshefskie did not say anything. § 87(2)(b) asked Sgt. Warshefskie if she could have § 87(2)(b)'s possessions, including money that she had given to him. Sgt. Warshefskie said that she could not, and accused her of being irate. § 87(2)(b) said that she was only asking a question, as an adult, and that the money belonged to her. Sgt. Warshefskie began to walk away. § 87(2)(b) said that if he would not give it to her she would take it from § 87(2)(b). Eventually, Sgt. Warshefskie gave Ms. § 87(2)(b) the money that § 87(2)(b) had on his person.

Meanwhile, PO Ranieri and PO Sepulveda searched § 87(2)(b)'s vehicle. They searched both the front and back of § 87(2)(b)'s vehicle, including under the seats and in the glove compartment. A front and a back door, possible on one side of the vehicle, were open. § 87(2)(b) did not see anyone open the trunk of § 87(2)(b)'s vehicle. At the conclusion of this search, § 87(2)(b) was placed in the grey unmarked vehicle and was transported to the precinct.

Attempts to Contact Additional Witnesses:

§ 87(2)(b)

§ 87(2)(b) identified § 87(2)(b) as a victim in the incident which transpired on October 8, 2007. A Lexis Nexis search was requested on November 14, 2007. On November 21, 2007, the results of this request were returned and a call was placed to every potential number. None of these numbers were viable. On November 21, 2007, a second Lexis Nexis search was requested based on a different, potential address. None of the numbers listed in the results of this search bore § 87(2)(b) name. On December 31, 2007, the investigation received a stop, question and frisk report that had been prepared for § 87(2)(b) on October 8, 2007 by PO Ranieri. The investigation sent an initial contact letter, based on the address information noted on this report, on December 31, 2007. On January 22, 2008, the investigation sent a final contact letter. The investigation was ultimately unable to contact § 87(2)(b).

§ 87(2)(b) identified § 87(2)(b) as a witness to the incident that transpired on October 10, 2007. The investigation made the following attempts to contact § 87(2)(b). Between November 14, 2007, and December 10, 2007, six calls were placed to § 87(2)(b)'s number. A message was left after each attempt. On November 14, 2007, a Lexis Nexis check was requested for § 87(2)(b). The subsequent results of this request yielded multiple addresses listing the surname § 87(2)(b). None of these addresses listed a phone number. The investigation was unable to determine which address, if any, corresponded with § 87(2)(b)'s residence. The investigation was ultimately unable to contact § 87(2)(b).

Police Officer Statements:

PO Frank Lupo

PO Frank Lupo is § 87(2)(b) old. He is a § 87(2)(b) PO Lupo is assigned to the 120th Precinct and has been a member of the service for seven years. He was interviewed at the CCRB on January 17, 2008 (encl. 12a – 12c). On the day of the incident, PO Lupo was assigned to a street narcotics enforcement unit operation with PO Ranieri and PO Sepulveda. He worked from 5:00 AM to 1:35 PM. PO Lupo was in uniform and assigned to an unmarked police van. Sgt. Warshefskie was PO Lupo's supervisor on this day, but was not present at the scene of the incident. There were no relevant entries in PO Lupo's memobook (encl. 11a – 11b) regarding this incident.

CCRB Statement

On October 8, 2007, at approximately 9:20 AM, PO Lupo was seated in the front of his assigned police vehicle. PO Lupo, PO Sepulveda and PO Ranieri were driving on Park Hill Avenue, PO Lupo observed § 87(2)(b) walking on the sidewalk. PO Lupo explained that he frequently sees § 87(2)(b) in this location and knows him by name, though he only refers to him by his last name. § 87(2)(b) made a right onto a walkway located between § 87(2)(b) and 55 Bowen Street. PO Lupo explained that there are a lot of drug transactions in that area.

§ 87(2)(b) continued to look over his shoulder at PO Lupo. This seemed suspicious, so PO Lupo and his partners slowly approached in his vehicle. PO Lupo and his partners drove ten to fifteen feet closer. PO Lupo then observed § 87(2)(b) and § 87(2)(b) engage in a hand to hand transaction. He was about eight feet away from § 87(2)(b) at this time. PO Lupo saw § 87(2)(b) put something in his pocket. He then started to walk away. There was another individual with § 87(2)(b) and § 87(2)(b) identified through the investigation as § 87(2)(b).

Aside from indicating what he had seen, PO Lupo did not have a discussion with his partners regarding the stop. PO Lupo, PO Sepulveda and PO Ranieri exited the police van. When the officers exited, § 87(2)(b) attempted to walk down the stairwell towards the building. PO Lupo approached § 87(2)(b) PO Lupo asked everyone to show their hands. Everyone complied, except for § 87(2)(b) PO Lupo explained to § 87(2)(b) that he was being stopped in relation to an observed drug transaction.

§ 87(2)(b) became very belligerent at this time. § 87(2)(b) verbally insulted PO Lupo with a number of expletives that PO Lupo did not wish to repeat. § 87(2)(b) told PO Lupo to go catch a murderer. At this time, § 87(2)(b) attempted to walk away. PO Lupo was not sure which officer stopped § 87(2)(b) and § 87(2)(b) but stated that they were stopped about five to six feet from § 87(2)(b) PO Lupo did not see the interaction between his partners, § 87(2)(b) or § 87(2)(b) because he was focusing on § 87(2)(b). Because § 87(2)(b) was so irate, PO Lupo did not want to lose his concentration.

§ 87(2)(b) had both his hands in his pockets at this time. PO Lupo asked § 87(2)(b) to remove his hands from his pockets. § 87(2)(b) refused. PO Lupo said that he needed § 87(2)(b) to remove his hands for safety purposes, because he did not know what § 87(2)(b) may have had in his pockets. § 87(2)(b) continued to direct profanity towards PO Lupo. PO Lupo told § 87(2)(b) that he had seen § 87(2)(b) outside the location, that he knew what § 87(2)(b) did in that location, and that he had seen § 87(2)(b) hand something to § 87(2)(b) PO Lupo told § 87(2)(b) that this was why he had been stopped and, by not complying, he was creating an unnecessary situation.

§ 87(2)(b) told PO Lupo that he had the number to Internal Affairs programmed on speed dial into his cellular phone. § 87(2)(b) stated this throughout the incident, and also said that he would 'have his badge.' He took out his cellular phone. § 87(2)(b) kept one hand in his pocket, and turned this side of his body away from PO Lupo. His failure to comply, in addition to the turning away, indicated to PO Lupo that § 87(2)(b) may have possessed a weapon.

PO Lupo instructed § 87(2)(b) to place his hands along the railing of the walkway. § 87(2)(b) did not want to turn around. PO Lupo grabbed him by his elbow and his belt and turned § 87(2)(b) around. PO Lupo held him with one hand by his back belt loop. PO Lupo explained that he does not like to frisk people face to face when they are physically larger. PO Lupo explained that it is less likely for a subject to gain control of an officer's firearm when they are facing away from him. In this way, PO Lupo was attempting to maintain control of the situation. PO Lupo patted § 87(2)(b) along one side, switched hands, and then patted him along the other side. He did not feel anything that felt like a weapon. PO Lupo felt along § 87(2)(b)'s waistline. PO Lupo explained that it is possible to hide small weapons in this area. He stated that, several weeks prior to this incident, he had discovered a scalpel on § 87(2)(b)'s person hidden in his waistline.

PO Lupo then requested § 87(2)(b)'s ID. § 87(2)(b) refused to provide this information, and refused to verbally identify himself. While patting § 87(2)(b) down, PO Lupo had felt what he assumed to be § 87(2)(b)'s wallet. However, he did not feel inside § 87(2)(b)'s pockets, nor did he retrieve his wallet. PO Lupo explained that he does not put his hands in anyone's pockets as a self-protective measure. PO Lupo never instructed § 87(2)(b) to unbuckle his pants. PO Lupo never felt in his groin area. PO Lupo never felt along the crevasse of § 87(2)(b)'s buttocks. PO Lupo never instructed § 87(2)(b) to remove his shoes or sit down. PO Lupo never instructed § 87(2)(b) to remove his belongings from his pockets. He only asked what was inside of § 87(2)(b)'s pockets.

At this time, PO Lupo observed that § 87(2)(b) was seated on a small riser near the railing. § 87(2)(b) was wearing his shoes. He was giving his ID to an officer. PO Lupo was not sure which officer was given his ID. PO Lupo knew that § 87(2)(b) and the other individual were both patted down for safety purposes. PO Lupo did not see PO Sepulveda or PO Ranieri feel inside anyone's pockets. PO Lupo did not pat down § 87(2)(b).

Before, during and at the conclusion of the incident, § 87(2)(b) continued to request PO Lupo's shield number. Each time, PO Lupo pointed to his badge, which was displayed on his left breast, and said "It's right here." PO Lupo told § 87(2)(b) that he could write it down. PO Lupo explained that both he and his partners were in full uniform, so it was not as if they were hiding their identifying information. After PO Lupo and his partners established that a drug transaction had not occurred, and after they explained to § 87(2)(b) and the other individual why they had been stopped, PO Lupo and his partners left the location. § 87(2)(b) was becoming increasingly more irate, and PO Lupo wanted to leave before the incident escalated any further.

PO Lupo did not prepare a stop and question report for § 87(2)(b) because he did not personally stop him. PO Lupo did not know who stopped § 87(2)(b). When asked whether he had prepared a stop, question and frisk report with regard to § 87(2)(b), PO Lupo replied, "I don't think I actually wrote one down, because he § 87(2)(b) was noncompliant."

PO Manuel Sepulveda

PO Manuel Sepulveda is § 87(2)(b) old. He is a § 87(2)(b). PO Sepulveda is assigned to the 120th Precinct and has been a member of the service for nine years. PO Sepulveda was interviewed at the CCRB on March 26, 2008 (encl. 16a – 16c). On October 8, 2007, PO Sepulveda was assigned to a street narcotics enforcement unit with PO Lupo and PO Ranieri. He worked from 5:00 AM to 1:35 PM. On October 10, 2007, PO Sepulveda was working with Sgt. Warshefskie and PO Ranieri. He worked from 5:00 AM to 1:35 PM. There were no entries in PO Sepulveda's memobook (encl. 15a – 15b) regarding either incident.

CCRB Statement

On October 8, 2007, at approximately 9:20 AM, PO Sepulveda and his partners were driving on Park Hill Avenue. PO Sepulveda was the operator of their unmarked vehicle. Either PO Lupo or PO Ranieri observed what appeared to be a hand to hand transaction between two males, identified through the

investigation as § 87(2)(b) and § 87(2)(b) PO Sepulveda did not know what item was seen to pass from hand to hand. There was an additional male with these two individuals, identified through the investigation as § 87(2)(b). These individuals were standing in an alley near the sidewalk between § 87(2)(b) and the neighboring building. They were the only individuals in the area.

PO Sepulveda stopped their police vehicle approximately fifteen feet from where the individuals were standing. PO Ranieri exited from the rear of the vehicle, PO Lupo from the front passenger's seat, and PO Sepulveda from the driver's seat. PO Sepulveda approached § 87(2)(b) and asked for his ID. Meanwhile, PO Lupo approached § 87(2)(b) and PO Ranieri approached § 87(2)(b). § 87(2)(b) told PO Sepulveda that he did not have an ID. PO Sepulveda asked for and obtained § 87(2)(b)'s name. He recorded this in a 250 report. PO Sepulveda asked § 87(2)(b) if he had any weapons on his person. § 87(2)(b) replied that he did not and voluntarily raised his shirt to reveal his waistband. PO Sepulveda never frisked or searched § 87(2)(b). There was nothing on § 87(2)(b)'s person which indicated to PO Sepulveda that he had a weapon. PO Sepulveda asked § 87(2)(b) what he was doing in the area. § 87(2)(b) said that he was only hanging out with his friends. PO Sepulveda's interaction with § 87(2)(b) lasted about two minutes.

During this time, PO Lupo was standing about five to eight feet to PO Sepulveda's right. PO Ranieri was standing past PO Lupo. PO Lupo requested § 87(2)(b)'s name. PO Sepulveda did not know whether PO Lupo obtained § 87(2)(b)'s ID. § 87(2)(b) became loud and argumentative. § 87(2)(b) asked PO Lupo why he had been stopped and why he was requesting his ID. PO Lupo was trying to be as polite as possible, but § 87(2)(b) continued to raise his voice. PO Lupo never directed any profanity towards § 87(2)(b). PO Lupo never searched any civilians. PO Sepulveda assumed that PO Lupo may have frisked § 87(2)(b) but did not see this transpire. None of the individuals requested PO Lupo's name and shield number. PO Sepulveda was at the location for no more than five minutes. As they were leaving, § 87(2)(b) informed the officers that he would be calling Internal Affairs.

On October 10, 2008, at approximately 12:00 PM, PO Sepulveda was the operator of an unmarked vehicle. PO Sepulveda and his partners received information from an officer stationed at an observation post above Targee Street. This officer saw a vehicle stop in front of 514 Targee Street. The driver of this vehicle approached a known dealer at that location, and engaged in what appeared to be a hand to hand transaction. The driver then left the location. The observation officer communicated to PO Sepulveda and his partners the description of the vehicle and the direction it was driving.

PO Sepulveda and his partners spotted the vehicle on Vanderbilt Avenue. They followed the vehicle as it turned onto Roff Street and turned again onto Bowen Street. The driver of this vehicle failed to signal at each turn. PO Sepulveda and his partners stopped the vehicle by turning on their police lights. PO Ranieri approached the driver of the vehicle. Sgt. Warshefskie and PO Sepulveda approached the passenger's side of the vehicle. PO Sepulveda did not recognize the driver of the vehicle. PO Sepulveda could hear what PO Ranieri was saying to the driver, who was subsequently identified as § 87(2)(b). § 87(2)(b)'s demeanor was calm. He continued to ask PO Ranieri why he had been stopped, but his behavior was not unusual. PO Sepulveda stated that § 87(2)(b) was probably questioned about the observed hand to hand transaction, but he did not hear this discussion and did not question § 87(2)(b) himself.

PO Ranieri asked § 87(2)(b) for his license and registration. PO Ranieri ran § 87(2)(b)'s license over the radio, and discovered that it was suspended. He did this while standing next to the driver's side of the vehicle. After it was determined that § 87(2)(b)'s license was suspended, § 87(2)(b) exited his vehicle. PO Ranieri effected his subsequent arrest. PO Sepulveda could not recall where, specifically, he was handcuffed. § 87(2)(b) was searched incident to his arrest, and no contraband was found on his person. At no point was § 87(2)(b)'s vehicle searched. PO Sepulveda did not see any officers search the vehicle. The passenger in § 87(2)(b)'s vehicle, identified through the investigation as § 87(2)(b), was not frisked or searched. PO Sepulveda did not have any verbal interaction with § 87(2)(b) or § 87(2)(b). PO Sepulveda was at the location for no more than ten minutes. A crowd never formed during this time. § 87(2)(b)'s girlfriend, identified through the investigation as § 87(2)(b), approached Sgt. Warshefskie at some point. PO Sepulveda did not have any verbal interaction with § 87(2)(b).

PO Edward Ranieri

PO Edward Ranieri is § 87(2)(b) years old. He is a § 87(2)(b) PO Ranieri is assigned to the 120th Precinct and has been a member of the service for three years. PO Ranieri was interviewed at the CCRB on February 29, 2008 (encl. 21a – 21c). On October 8, 2007, and on October 10, 2007, PO Ranieri was assigned to a street narcotics enforcement unit. On October 8, 2007, he worked from 5:00 AM to 1:35 PM with PO Lupo and PO Sepulveda. On October 10, 2007, he worked the same hours with PO Sepulveda and Sgt. Warshefskie. PO Ranieri's memobook (encl. 17a – 17c) notes that on October 8, 2007, at 10:15 AM, he stopped three males on the side of § 87(2)(b). At 10:20 AM, he prepared a stop, question and frisk report for § 87(2)(b). On October 10, 2008, at 12:40 PM, he stopped one vehicle towards the rear of § 87(2)(b). At 12:47 PM, he noted that one arrest at that location for a suspended license.

Police Reports

On October 8, 2007, PO Ranieri prepared a stop, question and frisk report (encl. 18a – 18b) for § 87(2)(b). The report noted that § 87(2)(b) was stopped at the side of § 87(2)(b) for suspected sale of a controlled substance. The circumstances which led to the stop were noted as actions indicative of engaging in a drug transaction and furtive movements. PO Ranieri noted that the stop lasted for two minutes and the stop was explained to § 87(2)(b). The report indicated that additional persons were stopped with § 87(2)(b) was not frisked or searched, and no contraband was found as a result of the stop.

On October 10, 2007, PO Ranieri prepared a stop, question and frisk report (encl. 19a – 19d) for § 87(2)(b). The report noted that § 87(2)(b) was stopped at the rear of § 87(2)(b) for suspected sale of a controlled substance. The stop lasted seven minutes. The circumstances which led to the stop were noted as actions indicative of engaging in a drug transaction. It was also noted that § 87(2)(b) fit a description. PO Ranieri explained the stop and other individuals were stopped with § 87(2)(b). The report noted that § 87(2)(b) was arrested, was frisked and was searched. No weapons or contraband were found on his person.

On October 10, 2007, PO Ranieri prepared an arrest report (encl. 20a – 20c) for § 87(2)(b). This report noted that PO Ranieri had observed § 87(2)(b) operating a motor vehicle, and that § 87(2)(b)'s license had twenty-two suspensions on nine different dates.

CCRB Statement

On October 8, 2007, at 10:15 AM, PO Ranieri was in his assigned vehicle with PO Lupo and PO Sepulveda. Three males, subsequently identified as § 87(2)(b) and § 87(2)(b) were standing in an alley which faces § 87(2)(b). PO Ranieri observed a hand to hand transaction. § 87(2)(b) was between § 87(2)(b) and § 87(2)(b). PO Ranieri saw something pass between § 87(2)(b) and § 87(2)(b)'s hands. PO Ranieri was about fifty feet away from the individuals at this time. PO Ranieri explained that the area is a drug-prone location.

The officers drove closer to the three individuals and exited their vehicle. As the officers approached, § 87(2)(b) began to walk away. PO Ranieri stopped § 87(2)(b) and spoke with him. PO Lupo stopped § 87(2)(b) and PO Sepulveda stopped § 87(2)(b). PO Lupo was standing between PO Ranieri and PO Sepulveda. They were situated in front of § 87(2)(b). PO Ranieri saw what appeared to be a hard object on § 87(2)(b)'s waistband. PO Ranieri frisked § 87(2)(b). PO Ranieri discovered that the hard object was a cellular phone. PO Ranieri's interaction with § 87(2)(b) lasted about five minutes.

During this time, PO Ranieri heard that § 87(2)(b) was arguing with PO Lupo. He could see PO Lupo and § 87(2)(b) in his peripheral vision. § 87(2)(b) said that "this is bullshit" and asked why he had been stopped. PO Lupo explained what the officers had stopped § 87(2)(b) and his companions. PO

Ranieri could not state definitively whether PO Lupo frisked or searched § 87(2)(b) PO Ranieri was focused on § 87(2)(b) PO Lupo never felt in § 87(2)(b)'s buttocks or groin area. At no point did PO Lupo direct any profanity towards § 87(2)(b) At the time of the stop, Sgt. Warshefskie was parked in an unmarked vehicle towards the corner of § 87(2)(b)

The officers concluded the stop and walked towards their vehicle. § 87(2)(b) informed the officers that he was calling IAB, said that he had this number on speed dial. None of the officers responded to this comment, they simply entered their vehicle and left the location. Later that day, Sgt. Warshefskie asked PO Ranieri whether he had stopped any individuals in front of § 87(2)(b) PO Ranieri explained that he had and Sgt. Warshefskie informed him that someone had called IAB with regard to the matter.

On October 10, 2007, at approximately 12:00 AM, PO Ranieri, PO Sepulveda and Sgt. Warshefskie were conducting a street narcotics enforcement unit operation in the vicinity of Park Hill Avenue and Targee Street. They comprised the apprehension team on this day. They received a call from an observation officer who was stationed on the roof overlooking 514 Targee Street. The observation officer informed PO Ranieri and his partners that he had observed a drug transaction and instructed the officers to pull over a black, Toyota Camry. The observation officer said that the vehicle was traveling down Targee Street towards Vanderbilt Avenue. At this time, PO Ranieri was near the intersection of Sobell Court and Bowen Street.

PO Ranieri and his partners drove towards Vanderbilt Avenue. They observed a black Toyota Camry near the intersection of Vanderbilt Avenue and Roff Street. The officers stopped this vehicle with lights and sirens at the rear of § 87(2)(b) PO Ranieri approached the driver's side of the vehicle. § 87(2)(b) was in this seat. PO Sepulveda was behind PO Ranieri. Sgt. Warshefskie approached the passenger's side of the vehicle. There was a male occupant, § 87(2)(b) § 87(2)(b) on this side of the vehicle.

PO Ranieri asked § 87(2)(b) for his license and registration. § 87(2)(b) said that he did not have a license, because it had been suspended. § 87(2)(b) provided a New York State identification card. § 87(2)(b) did not seem to recognize PO Ranieri from his previous encounter with the officers. PO Ranieri stepped away from § 87(2)(b)'s vehicle, stood near his own vehicle, and called his command to check § 87(2)(b)'s ID. PO Ranieri explained that he did not want § 87(2)(b) to hear him ask about his suspensions. When § 87(2)(b)'s ID was checked, it was discovered that he had twenty-two suspensions. It took about five minutes to check § 87(2)(b)'s ID for suspensions. In PO Ranieri's absence, PO Sepulveda stood in front of the driver's side of § 87(2)(b)'s vehicle. PO Ranieri could see where PO Sepulveda and Sgt. Warshefskie were standing, but could not hear anything of what they may have said to § 87(2)(b)

PO Ranieri came back to § 87(2)(b)'s vehicle. PO Ranieri asked § 87(2)(b) to exit his vehicle, and § 87(2)(b) complied. PO Ranieri walked § 87(2)(b) towards the rear of his vehicle and handcuffed him. Before § 87(2)(b) was placed in the officers' police vehicle, § 87(2)(b) was searched by PO Ranieri. During this time, § 87(2)(b) § 87(2)(b) had exited § 87(2)(b)'s vehicle. § 87(2)(b) § 87(2)(b) was checked for any warrants and allowed to leave. PO Ranieri did not see an officer frisk or search § 87(2)(b) PO Ranieri did prepare a stop, question and frisk report for § 87(2)(b) on this date.

A woman identified by the investigation as § 87(2)(b) § 87(2)(b) approached Sgt. Warshefskie. § 87(2)(b) said that § 87(2)(b) was driving her vehicle. The vehicle was registered in her name. Once this was determined, and because § 87(2)(b) was so polite, the vehicle was turned over to her. PO Ranieri never searched this vehicle, and did not see any officers search this vehicle. The entire incident lasted about fifteen minutes. PO Ranieri transported § 87(2)(b) to the 120th Precinct. § 87(2)(b) was arrested for driving with a suspended license. Prior to his arrest, § 87(2)(b) was not questioned about what the observation officer had seen on Targee Street. None of the officers asked him any questions about marijuana at any time. § 87(2)(b) was not questioned about anyone known as § 87(2)(b)

Sgt. Robert Warshefskie

Sgt. Robert Warshefskie is § 87(2)(b) years old. He is a § 87(2)(b). Sgt Warshefskie is assigned to the 120th Precinct and has been a member of the service for nineteen years. Sgt. Warshefskie was interviewed at the CCRB on January 17, 2008. On October 8, 2007, Sgt. Warshefskie worked from 5:15 PM to 2:12 AM with PO Nieves as supervisor of SNEU operations. There were no relevant entries in Sgt. Warshefskie's memobook regarding this incident.

CCRB Statement

On October 8, 2007, at approximately 9:20 AM, Sgt. Warshefskie was parked near the corner of § 87(2)(b). Three officers under Sgt. Warshefskie's supervision, PO Sepulveda, PO Lupo and PO Ranieri, were observing the location for narcotics transactions. Sgt. Warshefskie explained that the area is a drug prone location. They observed three or four males standing on a ramp in front of § 87(2)(b). PO Sepulveda, PO Lupo and PO Ranieri parked and stopped these individuals. Sgt. Warshefskie explained that they were stopped because they were believed to have engaged in a narcotics transaction. Sgt. Warshefskie believed that the officers observed a hand to hand transaction, but he did not witness this.

One of these males, § 87(2)(b) is always outside of this location. He is frequently stopped, and always gives the officers a difficult time. Sgt. Warshefskie said that § 87(2)(b) has the phone number to Internal Affairs programmed on speed dial into his cellular phone. Sgt. Warshefskie was not with the officers when they stopped § 87(2)(b) and his companions. However, he could see the ramp on which § 87(2)(b) and his companions were stopped. Although he saw the incident transpire, he could not hear anything of what was said.

Sgt. Warshefskie saw the officers approach § 87(2)(b) and his companions and engage them in conversation. Sgt. Warshefskie believed that § 87(2)(b) was patted down. He did not know which officer patted him down. At no point were any of the individuals handcuffed. Sgt. Warshefskie never saw § 87(2)(b) or his companions unbuckle their pants. Sgt. Warshefskie never saw any officers feel § 87(2)(b) or his companions' groin areas. Sgt. Warshefskie did not remember § 87(2)(b) or his companions sit down. After he was patted down, Sgt. Warshefskie saw § 87(2)(b) retrieve his cellular phone to, assumedly, make a phone call. As the officers left the location, § 87(2)(b) followed the police vehicle and recorded its license plate number. Sgt. Warshefskie said that a stop and question report should have been prepared for this incident.

On October 10, 2007, at approximately 12:00 PM, Sgt. Warshefskie was conducting a narcotics operation outside of 514 Targee Street. He was assigned to an unmarked police vehicle. He did not recall who he was working with on this date. Sgt. Warshefskie observed a vehicle park in front of this location. An officer stationed on the roof of this location radioed that the occupant of the vehicle had been observed purchasing a bag of marijuana from an individual in front of 514 Targee Street. The vehicle then drove to Bowen Street. Sgt. Warshefskie followed the vehicle and stopped it at this location. He stopped it in connection with the observed sale on 514 Targee Street.

Sgt. Warshefskie did not recall which officer first approached the vehicle. He recalled that there was an officer by the driver's side window of the vehicle, and that he then walked to this side of the vehicle as well. Sgt. Warshefskie could not recall the first thing he said to § 87(2)(b). Sgt. Warshefskie stated that he did not know that the occupant was § 87(2)(b) until he was subsequently instructed to exit the vehicle. § 87(2)(b) began to harass Sgt. Warshefskie and asked why he had been stopped. Sgt. Warshefskie did not recall what § 87(2)(b) specifically said, but he did remember that § 87(2)(b) was under the impression that he was being harassed because he had called Internal Affairs. Sgt. Warshefskie said that this was not the case, because they did not know that the occupant of the vehicle was § 87(2)(b) until he was stopped.

§ 87(2)(b) was instructed to exit his vehicle. He was instructed to exit the vehicle because of the observed narcotics transaction. § 87(2)(b)'s license was checked at this time and it was discovered that this license was suspended. There was a male individual, identified through the investigation as § 87(2)(b) with § 87(2)(b) at this time. § 87(2)(b) approached Sgt. Warshefskie and asked him not to arrest § 87(2)(b). § 87(2)(b) said that he had family members who were officers and explained

that § 87(2)(b) was his friend. Sgt. Warshefskie explained that this was not possible. § 87(2)(b) was not searched or patted down.

§ 87(2)(b) was then placed under arrest. PO Ranieri placed § 87(2)(b) in handcuffs. § 87(2)(b) was then patted down to ensure that he did not possess any weapons. § 87(2)(b) was searched at the precinct. Sgt. Warshefskie did not recall if anything was recovered from § 87(2)(b)'s person. Sgt. Warshefskie never asked § 87(2)(b) about an individual known as '§ 87(2)(b)'. He stated that he had never heard of this individual. § 87(2)(b) begged Sgt. Warshefskie not to arrest him, and stated that he would not call Internal Affairs again.

§ 87(2)(b)'s vehicle was searched at the scene. Sgt. Warshefskie did not know which officers searched this vehicle. The driver's seat and grabbable area was searched. Sgt. Warshefskie did not know if the glove compartment was searched. Sgt. Warshefskie did not know if anything was recovered from § 87(2)(b)'s vehicle. At this time, there was not a crowd of people in the vicinity. Sgt. Warshefskie thought that one or two people may have walked up after § 87(2)(b) was placed in handcuffs. A female approached Sgt. Warshefskie. The female mentioned needed § 87(2)(b)'s vehicle to pick up her children from school. She also mentioned needed § 87(2)(b)'s money to pay their rent. § 87(2)(b) was transported to the 120th Precinct and charged for driving with a suspended license.

Communications Records

The SPRINT (encl. 22) shows that § 87(2)(b) called 911 and was connected to Internal Affairs on October 8, 2007, at 9:27 AM. Central requested that a patrol sergeant respond to the location. At 9:42 AM, a patrol supervisor from the 120th Precinct responded to the location. At 10:04 AM, Sector A from the 120th Precinct resumed patrol. At 10:06 AM, the patrol sergeant indicated that a non-crime had been corrected.

Police Department Documents

120th Precinct Roll Call

The roll call for October 8, 2007 (encl. 23) shows that PO Lupo, PO Sepulveda and PO Ranieri were assigned to a street narcotics enforcement unit in radio motor patrol vehicle 8603. The roll call for October 20, 2007 (encl. 24a – 24b), shows that Sgt. Warshefskie was the assigned street narcotics enforcement unit supervisor. The roll call notes that PO Sepulveda and PO Ranieri were both assigned to a street narcotics enforcement unit.

120th Precinct Command Log

The command log for October 10, 2007 (encl. 25), shows that § 87(2)(b) was arrested for driving with a suspended license at the rear of § 87(2)(b). His arresting officer was PO Ranieri, and his physical and mental condition was listed as good.

Officer CCRB History

PO Frank Lupo, PO Manuel Sepulveda, PO Edward Ranieri, and Sgt. Robert Warshefskie (encl. 3a – 3h) have had no CCRB allegations substantiated against them which resulted in the imposition of discipline.

Disposition of Relevant Arrest

§ 87(2)(b) was arrested for violating section 511.2A of Vehicle and Traffic Law, or aggravated unlicensed operation of a motor vehicle in the second degree (encl. 26a – 26b). On § 87(2)(b) pled guilty to this charge. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Conclusions and Recommendations

Officer Identification

Statements and documentary evidence confirmed the involvement of PO Lupo, PO Sepulveda and PO Ranieri in the incident which transpired on October 8, 2007. As PO Lupo admitted to stopping § 87(2)(b) this allegation is pleaded against him. As § 87(2)(b) was clear in stating that PO Lupo searched him while PO Sepulveda searched § 87(2)(b) and PO Ranieri searched § 87(2)(b) a respective search allegation has been pleaded against each of these officers. As § 87(2)(b) was clear in stating that PO Lupo refused to provide his name and shield number, this allegation has been pleaded against him.

Statements and documentary evidence confirmed the involvement of Sgt. Warshefskie, PO Sepulveda and PO Ranieri in the incident which transpired on October 10, 2007. As Sgt. Warshefskie admitted to stopping the § 87(2)(b)'s vehicle, this allegation has been pleaded against him. § 87(2)(b) stated that his vehicle was searched PO Sepulveda and PO Ranieri, both of whom denied searching this vehicle. As Sgt. Warshefskie stated that a search of § 87(2)(b)'s vehicle was conducted, and as Sgt. Warshefskie was the supervising officer at the scene of the incident, a search allegation with respect to § 87(2)(b)'s vehicle has been pleaded against him. Though § 87(2)(b) said that § 87(2)(b) was frisked, § 87(2)(b) stated that PO Sepulveda searched him. A search allegation has therefore been pleaded against PO Sepulveda.

Undisputed Facts

It is undisputed that PO Lupo stopped § 87(2)(b) on October 8, 2007.

It is undisputed that Sgt. Warshefskie stopped the vehicle in which § 87(2)(b) was an occupant on October 10, 2007. The reason for which this vehicle was stopped is undisputed.

§ 87(2)(g)

§ 87(2)(b), § 87(2)(g) [Redacted]
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§ 87(2)(b), § 87(2)(g) [Redacted]

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§ 87(2)(b), § 87(2)(g) [Redacted text block]

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§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Allegations Not Pleaded

While § 87(2)(b) alleged that PO Lupo searched § 87(2)(b) made no mention of this at the time of his telephone statement. Therefore, a search allegation with respect to § 87(2)(b) has not been pleaded.

Allegation A. On October 8, 2007, PO Frank Lupo stopped § 87(2)(b)

A police officer is allowed to stop a person in a public place “when he reasonable suspects that such a person is committing, has committed, or is about to commit” (encl. 1a – 1h) a crime. An officer must have a ‘particularized and objective’ basis whereupon to suspect that a particular of engaging in criminal activity, and must be able to articulate those specific facts which instigated the stop.

PO Lupo stopped § 87(2)(b) by instructing him to show his hands and later instructing him to place his hands along a rail bordering the sidewalk of § 87(2)(b). According to PO Lupo, he stopped § 87(2)(b) after observing a hand to hand transaction. When an officer “observes an exchange of currency for an unidentified object, reasonable suspicion will arise if the exchange occurs in a drug-prone area” (encl. 1a – 1h). However, as was addressed under the assessment of evidence, PO Lupo did not articulate what was seen to have passed between § 87(2)(b) and § 87(2)(b). While PO Lupo saw § 87(2)(b) look over his shoulder several times and then place something in his pocket, these actions are inherently innocuous.

PO Lupo did state that he has previously stopped § 87(2)(b) for suspected drug transactions. However, the courts have found that “if a defendant is in the company of someone who has engaged in criminal activity” (encl. 1a – 1h), this fact alone does not constitute reasonable suspicion. § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation B. On October 8, 2007, PO Frank Lupo searched § 87(2)(b)

§ 87(2)(b) alleged that PO Lupo searched him. § 87(2)(g)
§ 87(2)(b). PO Lupo denied searching § 87(2)(b) though he admitted to frisking him. This statement was supported by Sgt. Warshefskie’s observation of the incident. § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

Allegation C. On October 8, 2007, PO Manuel Sepulveda searched § 87(2)(b)

§ 87(2)(b) alleged that PO Sepulveda searched § 87(2)(b) which § 87(2)(b) corroborated at the time of his telephone statement. § 87(2)(b) failed to appear for scheduled interviews on October 23, 2007, October 21, 2007, and October 14, 2007. § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

Allegation D. On October 8, 2007, PO Edward Ranieri searched § 87(2)(b)

§ 87(2)(b) alleged that PO Ranieri searched § 87(2)(b). The investigation was ultimately unable to contact § 87(2)(b) with regard to his complaint. Contact letters were mailed to § 87(2)(b) between December 31, 2007, and January 22, 2008. § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

Allegation E. On October 8, 2007, PO Frank Lupo refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) alleged that PO Lupo refused to provide his name and shield number. However, as was addressed under the assessment of evidence, he made specific allegations against PO Lupo at the time of his complaint with Internal Affairs (encl. 4a – 4b), which he could only have done had he possessed PO Lupo’s identifying information. Additionally, § 87(2)(b) stated at the time of his telephone statement to the CCRB (encl. 6) that he had recorded PO Lupo’s identifying information during the incident. The

§ 87(2)(g)
§ 87(2)(b)

Allegation F. On October 10, 2007, Sgt. Robert Warshefskie stopped the car in which § 87(2)(b) was an occupant.

The stop of an automobile constitutes a seizure. According to *People v. May*, “an officer may stop a vehicle to investigate criminal activity when he has a reasonable suspicion that its occupants have been engaged,

are presently engaged, or are about to engage in conduct in violation of the law” (encl. 1a – 1h). In this case, as was addressed under the assessment of evidence, Sgt. Warshefskie was informed that the occupant of a black Toyota Camry purchased a bag of marijuana from an individual in front of 514 Targee Street. § 87(2)(b) admitted to parking on Targee Street and confirmed that his vehicle is a black Toyota Camry. Sgt. Warshefskie was further informed as to where this vehicle was headed. Sgt. Warshefskie followed this vehicle from Bowen Street to the rear of § 87(2)(b) 514 Targee Street is located three blocks away from § 87(2)(b).

The information which was communicated to Sgt. Warshefskie was clear and specific, and he stopped § 87(2)(b)'s vehicle three blocks away from the location of the observed narcotics transaction. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

Allegation G. On October 10, 2007, Sgt. Robert Warshefskie supervised the search of the car in which § 87(2)(b) was an occupant.

The United States Supreme Court has held that, absent a warrant, the police may execute a search of a vehicle when “they have probable cause to believe that it contains contraband, a weapon, or evidence of a crime” (encl. 1a – 1h). The conditions from probable cause arises may exist independently from those which resulted in the arrest of the occupant of the vehicle.

§ 87(2)(b)'s vehicle was searched after he was arrested. According to *People v. Johnson* a vehicle may be searched “when the police develop information creating probable cause to believe there is evidence of a crime in the car, even when the defendant is arrested outside the car for an unrelated crime” (encl. 1a – 1h). As was addressed under the assessment of evidence, the vehicle that § 87(2)(b) was driving on the day of the incident was a black Toyota Camry, which was the same make and model of the vehicle from which an occupant had been observed purchasing a bag of marijuana. Additionally, § 87(2)(b) was traveling in the same direction as the vehicle observed in this narcotics transaction and his vehicle was stopped three blocks away from the location of the transaction itself. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation H. On October 10, 2007, PO Sepulveda searched § 87(2)(b) § 87(2)(b)

§ 87(2)(b) alleged that PO Sepulveda frisked § 87(2)(b) § 87(2)(b) stated that he was searched by PO Sepulveda. PO Sepulveda denied frisking or searching § 87(2)(b) § 87(2)(b) which PO Ranieri and Sgt. Warshefskie corroborated. § 87(2)(b) § 87(2)(b) failed to appear for a scheduled interview on November 26, 2007. Between November 14, 2007, and December 10, 2007, five calls were placed to § 87(2)(b) § 87(2)(b) made no attempts to contact the investigation with regard to this case. The § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g) [Redacted]
[Redacted]

§ 87(2)(g), § 87(4-b) [Redacted]
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Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: